HIGH COURT OF UTTARANCHAL, AT NAINITAL

Habeas Corpus Writ Petition No.22 of 2005

Smt. Reeta W/o Harjeet Singh
R/o Chatarpur Post Office
P.S. Jaspur
Tehsil Jaspur
District U. S. Nagar .....Petitioner

Versus

1. State of Uttaranchal
2. Station House Officer
   P.S. Jaspur
   District U. S. Nagar
3. Darshan Ram
   S/o Sri Moti Ram
   R/o Kripacharyapur
   P.S. Jaspur
   District U. S. Nagar .....Respondents

Sri M. S. Pal learned senior Advocate for the petitioner assisted by Sri V. S. Pal learned Advocate.
Sri A. Rab learned Addl. G.A. assisted by Sri Nandan Arya learned A.G.A.

Hon'ble J. C. S. Rawat, J.

1. This writ petition has been filed by the petitioner under Article 226 of the Constitution of India with the prayer to issue a writ directing the respondent No.2 to release the petitioner from the custody of respondent No.3-Darsha Ram and handover the petitioner to her husband forthwith.

2. The petitioner has alleged in this petition that she married with Harjeet Singh according to the Hindu custom. It was further alleged that the petitioner and her husband had an apprehension that the grandfather (respondent No.3) of the petitioner may involve her husband in a false case. On 31.10.2005 the respondent No.3 submitted an application under section 156(3)

Cr.P.C.before Judicial Magistrate, Kashipur, U. S. Nagar. Thereupon the learned Magistrate directed the S.H.O. Jaspur to take necessary action against the husband of the petitioner and his family members. It has been further alleged that her father and relatives compelled her husband to live there as 'Ghar Jawain', but her husband declined to avail that offer and on 15.10.2005 the relatives of the petitioner came to her matrimonial house and beaten her husband. Thereafter, the respondent No.3 lodged an FIR against the husband of the petitioner. On the basis of the said report, a case crime No.1492/2005 was registered under section 363, 366 I.P.C. The petitioner was taken into custody by the police. When the police handed over the petitioner in the custody of respondent No.3, the present petition has been filed.

3. Heard Sri M. S. Pal learned senior counsel assisted by Sri V. S. Pal learned counsel for the petitioner and Sri A. Rab learned Addl. G.A. assisted by Sri Nandan Arya learned A.G.A.

4. The respondent No.2-S.H.O. P.S. Jaspur and respondent No.3-Darshan Ram were directed to produce Reeta-petitioner before this Court vide its order dated 20.12.2005. Pursuant to the order passed by this Court, today Reeta-petitioner is present in person alongwith her mother-Smt. Kuldeep Kaur W/o Kulwinder Singh. The petitioner has been identified by Sri V. S. Pal learned counsel and her mother-Smt. Kuldeep Kaur has been identified by Sri Nandan Singh Bhandari, S.I., police station Jaspur.

5. The statement of Reeta-petitioner was recorded in 'camera' in the Court itself. On being asked by the Court, she informed that she knows only Hindi language. She replied in Hindi. She has stated as follows:-

> "मेरा नाम कु रीता है। मैं हिन्दी जानती हुँ। मेरी शादी नहीं हुई है मेरी उम्र 17 वर्ष है। इस कोट मे जो मुकदमा किया वह मेरी हिदायत पर नही किया है। जेसा कि इस पिटिसन में कहा गया हैं कि मैं हरजीत सिंह की पत्नी हुॅ यह कहना बिलकुल गलत हैं। यह बात भी कतई गलत है कि हरजीत सिंह के साथ मेरा विवाह हुआ था। मैं हरजीत सिंह के साथ उसकी पत्नी के रूप में कभी नहीं रही। हरजीत सिंह का खेत हमारे घर के पास ही है। मेरे पिताजी पागल हैं और मेरी माता मजदूरी का काम करती है। हरजीत ने एक बार मेरी इच्छा के विरूद्ध मेरी इज्जत लूटी थी और कहा कि यदि तूने अपनी मॉ को बताया तो जान से मार दूंगा यदि तूने नही बताया तो मैं तुमसे भाादी कर लूंगा। मैने डर से अपने घर पर नहीं बताया क्योंकि मेरे पापा पागल थे। जब मेरे पेट में पॉच महिने का गर्भ था तब हरजीत मुझे मेरे घर से जबरदस्ती उठा कर ले गया। मुझे मेरे घर से हरजीत उठा कर नहीं ले गया था बल्कि उसकी छोटी बहन रात को 10 बजे मुझे मेरे घर से ले गई थी। ग्राम लेडा के प्रधान की गाड्डी हरजीत सिह के धर में खडी थी और वहां से मुझे जबरदस्ती उठाकर उस गाड्डी में का ीपुर ले गया।
>
> मैं हरजीत सिंह के साथ नहीं जाना चाहती हूॅ। मेरी जन्म तिथि मेरी स्थानान्तरण प्रमाण पत्र में द ित है। मै। अपने मॉ के साथ जाना चाहती हूॅ।"

6. The statement of Reetu clearly reveals that she never instructed Harjeet Singh to file the Habeas Corpus petition before this Court. She is not the wedded wife of Harjeet Singh. She was taken by the sister of Harjeet Singh from her house. It has been further stated that Harjeet Singh committed rape upon her and when she was carrying five months child in her womb, Harjeet

took her to Kashipur in the vehicle of the Pradhan of Leda.

7. Sri Nandan Singh Bhandari, S.I., police station Jaspur has filed the affidavit alleging therein that the I.O. has submitted a chargesheet against the accused persons namely Harjeet Singh, Kashmir Singh, Smt. Urmila, Saukeen, Sarvesh @ Sabnam. It has been stated in the affidavit that the I.O. has recorded the statement of the petitioner-Reeta under section 161 Cr.P.C., which disclosed the offence against the accused persons. Sri Nandan Singh Bhandari, S.I., police station Jaspur has also filed the School Leaving Certificate of Reeta, in which the date of birth of the petitioner is 12.4.1988. Therefore, the petitioner-Reeta is below 18 years and she is minor.

8. Considering the statement of the petitioner-Reeta made before this Court in camera and the statement recorded under section 161 Cr.P.C., I am of view that the girl is minor, therefore, she is given in the custody of her monter-Smt. Kuldeep Kaur W/o Kulwinder Singh.

9. In view of the facts and circumstances of the case, the petition devoids of merit and is liable to be dismissed. The petition is dismissed accordingly.

(J. C. S. Rawat, J.)

Dated 28.02.2006
LSR